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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91215100
Party	Plaintiff Emilio Pucci International BV
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<p>EMILIO PUCCI INTERNATIONAL BV,</p> <p style="text-align: center;">Opposer,</p> <p style="text-align: center;">v.</p> <p>RANI SACHDEV,</p> <p style="text-align: center;">Applicant.</p>	<p>Opposition No.: 91215100</p> <p>Serial No.: 85913782</p> <p>Mark: ST. PUCCHI</p> <p>Filing Date: April 24, 2013</p>
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OPPOSER’S MOTION FOR SANCTIONS AND TO SUSPEND

Opposer Emilio Pucci International BV (“Pucci”) respectfully moves the Board for sanctions in the form of judgment against Applicant Rani Sachdev (“Applicant”) for Applicant’s ongoing refusal to comply with its discovery obligations. On February 23, 2016, the Board issued an Order in response to Applicant’s Motion for Protective Order providing Applicant with twenty days to serve “full and complete responses to Opposer’s First Set of Interrogatories and First Set of Document Requests.” TTABVUE 19. As of the filing date of this Motion, Applicant has not produced any documents or information in response to the Board’s Order. Rather, consistent with her ongoing delinquent conduct, Applicant has chosen to ignore her obligations—requiring Pucci and the Board to yet again expend resources to address Applicant’s misconduct.

Applicant has now had *over a year* to respond to Pucci’s discovery requests. Over this long period, it has produced neither documents nor responses to Pucci’s interrogatories. Instead of responding to discovery, Applicant chose to file a motion for protective order in clear violation of the Board’s rules. Mot. for Protective Order,

TTABVUE 15; Order Denying Mot. for Protective Order, TTABVUE 18 at 3 (“Applicant’s filing of a motion for a protective order . . . was procedurally improper.”). Applicant has also ignored Pucci’s repeated requests for supplementation and, more egregiously, has now ignored the Board’s Order compelling Applicant to produce documents and information. Indeed, Applicant has produced *no* discovery in the nearly three months since the Board issued its Order.

Applicant’s failure to comply with the Board’s rules and procedures has significantly delayed this case, and required Pucci to expend unnecessary time and incur unnecessary expense to obtain documents and information to which it is entitled. On the one hand, Applicant asks the U.S. Patent and Trademark Office (“PTO”) to employ its resources so that Applicant may obtain the benefits of a U.S. federal registration. On the other hand, Applicant flouts the PTO’s procedures, process, rules, and warnings—without *any* reasonable explanation for doing so. Applicant cannot have it both ways.

Both Pucci and the Board have been patient with Applicant. It is now abundantly clear that Applicant will not produce the requested discovery, comply with the Board’s Order, follow the Board’s rules and procedures, or actively participate in this proceeding. As such, it is futile for this case to continue, which would only result in additional, significant expense to both Pucci and the Board. Accordingly, Pucci respectfully requests entry of sanctions in the form of judgment against Applicant and/or other relief as the Board deems appropriate. Pucci further requests that this proceeding be suspended pending disposition of this motion.

I. BACKGROUND

On February 25, 2014, Pucci filed a Notice of Opposition against Applicant's Application Serial No. 85913782. The proceeding was instituted as Opposition No. 91215100. Pucci served Opposer's First Set of Interrogatories, Opposer's First Set of Requests for the Production of Documents and Things, and Opposer's First Set of Requests for Admission on April 30, 2015. Mot. for Protective Order, TTABVUE 15, Exs. A-C. On the same day, Opposer sent Applicant's counsel a letter proposing settlement terms. Declaration of Julia Anne Matheson in Support of Opposer's Opposition to Applicant's Motion for Protective Order, TTABVUE 17 "Matheson Decl.", ¶ 24.

As detailed in Pucci's Opposition to Applicant's Motion for Protective Order, Applicant's counsel delayed contacting counsel for Opposer until the afternoon of the actual day that Applicant's discovery responses were due. At that time, Applicant's counsel requested a thirty (30) day extension of time to respond to discovery without explanation or justification for the delay. *Id.*, Ex. 1. When advised that counsel for Opposer could not grant him further extensions without the client's approval, and that, due to the lateness of the hour, Opposer's representatives (located in France and Italy) could not be reached, counsel for Applicant threatened a protective order. *Id.*, Ex. 6. Applicant's counsel subsequently followed up with a demand for a seven (7) day extension, and then a three (3) day extension, none of which counsel for Opposer was authorized to grant. *Id.*, Exs. 2-5. When Applicant's eleventh-hour attempt to receive an extension failed, she filed a motion for protective order.

On January 20, 2016, the Board issued an order denying Applicant's motion for protective order. Order Den. Mot. for Protective Order, TTABVUE 18 at 10. The Board granted Applicant fifteen (15) days to show good cause as to why the Board should not sanction her. *Id.* at 11. On February 23, 2016—having received no response from Applicant—the Board ordered Applicant to serve “full and complete responses to Opposer's First Set of Interrogatories and First Set of Document Requests” within twenty days (i.e., by March 14, 2016). TTABVUE 19. Applicant has done nothing to comply with the Board's Order in the nearly three months since it issued.

II. ARGUMENT

A. Applicant's Continued Pattern of Delay

As detailed in Opposer's Opposition to Applicant's Motion for Protective Order, Applicant has continually delayed these proceedings. *See generally*, Opposer's Opp'n to Applicant's Mot. for Protective Order, TTABVUE 16, Section II.A; Order Den. Mot. for Protective Order, TTABVUE 18 at 9 (“[I]t is apparent that Applicant filed the motion . . . on the hope of delaying her obligation to serve responses, or worse, to impede the progression of discovery.”). Shortly after the Board denied Applicant's Motion for Protective Order, Pucci informed Applicant's counsel that it expected “full and complete responses to Pucci's [discovery requests], along with all responsive documents, immediately.” Declaration of Morgan Smith in Support of Opposer's Motion for Sanctions, ¶ 2, Ex. 1 (“Smith Decl.”). In the same letter, Pucci enclosed a proposed settlement agreement for Applicant's consideration. *Id.* The parties then suspended proceedings for thirty days on February 26, 2016 to conclude settlement. TTABVUE 20. After discussing settlement terms, Pucci sent Applicant another proposed agreement on

March 30, 2016 and asked to hear from Applicant's counsel promptly. *Id.* at ¶¶ 3, 4, Ex. 2. On April 26, 2016, having received no response, Pucci again contacted Applicant's counsel regarding the proposed settlement agreement, reminded Applicant that she was in breach of the Board's Order to provide discovery responses, and indicated Pucci's unwillingness to tolerate further delays. *Id.*, ¶ 5, Ex. 3. In response, Applicant's counsel requested a 30 or 60-day extension, citing medical issues with one of Applicant's family members. *Id.*, ¶ 6, Ex. 4. Given Applicant's pattern of dilatory conduct and repeated attempts to delay this proceeding, on May 2, 2016, Pucci informed Applicant's counsel of its intention to proceed with this motion. *Id.*, ¶ 7, Ex. 5.

B. Judgment Should Be Entered Against Applicant

If a party fails to comply with a Board order relating to discovery, the Board may, among other things, enter sanctions against the noncompliant party. 37 CFR § 2.120(g); TBMP § 527.01(a). The Board has discretion to impose sanctions within the parameters of Fed. R. Civ. P. 37(b), including entering judgment against a party. See *Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co.*, 55 USPQ2d 1848, 1854 (TTAB 2000) (entering judgment based on pattern of dilatory conduct and willful disregard of Board's order); *MHW Ltd. v. Simex, Aussenhandels-gesellschaft Savelsberg KG*, 59 USPQ2d 1477, 1478-79 (TTAB 2000) (repeated failure to comply with orders and unpersuasive reasons for delay resulted in entry of judgment); *Unicut Corp. v. Unicut, Inc.*, 222 USPQ 341, 344 (TTAB 1984) (entering judgment against party evading discovery); *Caterpillar Tractor Co. v. Catfish Anglers Together, Inc.*, 194 USPQ 99, 100 (TTAB 1976) (entering default judgment against party for failing to answer interrogatories).

The entry of judgment against Applicant is warranted in this case. As detailed above, having had over a year to do so, and in direct contradiction of the Board's Order, Applicant has wholly failed to fulfill her discovery obligations. Applicant has been afforded the opportunity by Pucci and the Board to resolve her deficiencies so this case may proceed to trial. However, Applicant has refused and/or ignored this opportunity. Applicant has not produced a single document, responded to any discovery requests, or done anything to comply with the Board's Order. Even worse, Applicant's refusal to fulfill her obligations comes in the face of clear and direct admonitions and warnings by the Board.

Applicant has made clear her disinterest in this case and unwillingness to comply with the Board's Order, rules, and procedures. Accordingly, sanctions in the form of judgment against Applicant should be entered.

C. Suspension Is Appropriate

When a party files a motion that is potentially dispositive of a proceeding, the Board will suspend all matters not germane to the motion. 37 CFR § 2.127(d). The Board also has discretion to suspend proceedings for good cause. *Id.* § 2.117(c); TBMP § 510.

Pucci therefore requests that this proceeding be suspended pending disposition of this motion. Suspension of the proceeding will save the time and resources of both the parties and the Board.

Alternatively, if this motion is denied, Pucci will need time for Applicant to produce the outstanding discovery and, subsequent to said production, to prepare its case for trial. Pucci thus requests that, if this motion is denied, its testimony period be

reset to open 60 days from the date of the Board's ruling and that all remaining deadlines, including Pucci's deadline to submit its pretrial disclosures, be reset accordingly.

III. CONCLUSION

For the reasons stated above, Pucci respectfully requests that the Board grant its motion for sanctions in the nature of entering judgment against Applicant and suspend all proceedings not germane to this motion.

Respectfully Submitted,

Date: May 10, 2016

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CERTIFICATE OF SERVICE

This will certify that a copy of the foregoing Opposer's Motion for Sanctions and to Suspend has been served upon counsel for Applicant via first class mail, postage prepaid, on May 10, 2016, at the following address of record:

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